

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MATTHEW PAWLOWSKI,

Plaintiff,

v.

Civil Action No. _____

KCA FINANCIAL SERVICES, INC.

Defendant.

COMPLAINT AND DEMAND FOR JURY TRIAL

I. INTRODUCTION

1. This is an action for actual and statutory damages brought by an individual consumer for Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (hereinafter "FDCPA") which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices..

II. JURISDICTION

2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1337.

III. PARTIES

3. Plaintiff Matthew Pawlowski is a natural person residing in Williamsville, New York.
4. Defendant KCA Financial Services, Inc. (hereinafter referred to as "KCA") is a corporation organized under the laws of the State of Illinois.
5. Upon information and belief, KCA regularly attempts to collect debts alleged to be due another.

IV. FACTUAL ALLEGATIONS

6. That the Plaintiff incurred a telephone bill to Verizon North, or an entity with a similar name. (hereinafter referred to as "Verizon"). The debt to Verizon shall hereinafter be referred to as "the subject debt".
7. That Plaintiff filed a petition for relief pursuant to Chapter 7 of Title 11 of the United States Code on March 29, 2004 in the United States Bankruptcy Court, Western District of New York. The case was assigned case number 1-04-12196-CLB.

8. That Plaintiff listed Verizon as a creditor on his bankruptcy petition.
9. That on July 9, 2004 the Bankruptcy Court issued an order discharging the Plaintiff's indebtedness to Verizon.
10. That Verizon employed Defendant to collect the subject debt.
11. That on March 31, 2005, Defendant mailed a letter to Plaintiff seeking to collect the subject debt. (A copy of said letter is annexed hereto as exhibit A).
12. That on April 19, 2005, Plaintiff's bankruptcy attorney mailed Defendant a letter advising them of Plaintiff's bankruptcy filing. (A copy of said letter is annexed hereto as exhibit B).
13. That on October 10, 2005, Defendant mailed Plaintiff a second letter seeking to collect the subject debt. (A copy of said letter is annexed hereto as exhibit C).
14. As a result of the acts alleged above, Plaintiff has suffered actual damages, including but not limited to emotional distress, embarrassment and humiliation.

V. FIRST CAUSE OF ACTION

15. Plaintiff repeats and realleges and incorporates by reference paragraphs 1 through 14 above.
16. The conduct of Defendant as described in this complaint violated 15 U.S.C. §1692e(2) by misstating that amount and legal status of the debt by asserting that the debt was legally owed when, in fact, it had been discharged by the Bankruptcy Court.
17. As a result of the Defendant's violations of the FDCPA, the Plaintiff suffered actual damages, including emotional distress, and is also entitled to an award of statutory damages, costs and attorneys' fees.

VI. SECOND CAUSE OF ACTION

18. Plaintiff repeats and realleges and incorporates by reference paragraphs 1 through 17 above.
19. That the Defendant knew or should have known that the Plaintiff had filed bankruptcy and had received a discharge of the indebtedness which they sought to collect.
20. That That Defendant's actions as described in the complaint were willful, malicious attempts to collect Plaintiff's discharged debt.
21. As a result of the acts alleged above, Plaintiff has suffered actual damages, including but not limited to emotional distress, embarrassment and humiliation.
22. That by reason of the foregoing, Defendant violated the discharge injunction provided for by 11 U.S.C. §524.

23. That all of the damages suffered by Plaintiff alleged in this complaint were proximately caused by Defendant's violations 11 U.S.C. § 524 alleged herein.

WHEREFORE, Plaintiff respectfully requests that judgment be entered against the Defendant for:

- (a) actual damages;
- (b) statutory damages pursuant to 15 U.S.C. § 1692k.
- (c) Costs, disbursements and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k.
- (d) Declaring the Defendant guilty of civil contempt by violating the discharge injunction provided for in 11 U.S.C. § 524 for its actions detailed in this complaint;
- (e) Awarding Plaintiff actual, compensatory and punitive damages, plus attorney fees and costs pursuant to 11 U.S.C. § 524 and for contempt of Court; and
- (f) For such other and further relief as may be just and proper.

A JURY TRIAL IS DEMANDED.

Dated: May 12, 2006

s/KENNETH R. HILLER, ESQ.
Attorney for the Plaintiff
2001 Niagara Falls Boulevard
Amherst, NY 14228
(716) 564-3288
Email: khiller1@adelphia.net

KQ0841-5-5H1 - 888-332-8666 EXT 336
KCAFS 628 North Street
Post Office Box Number 53
Geneva, IL 60134
Forwarding Service Requested

VERIZON NORTH NY (BUFFALO)
ACCT#: 7165681421253264026

Total Due \$670.73

|||||
MATTHEW PAWLOWSKI

27 SILVERTHORN DR
WILLIAMSVILLE NY 14221-1763

KCA FINANCIAL SERVICES, INC.
628 North Street
Post Office Box Number 53
Geneva, IL 60134

|||||

PLEASE ENCLOSE THIS PORTION WITH YOUR PAYMENT

KQ0841-5-5H1 - 888-332-8666 EXT 336
MATTHEW PAWLOWSKI

27 SILVERTHORN DR
WILLIAMSVILLE NY 14221-1763

3/31/2005

RE: YOUR ACCOUNT:



KCA FINANCIAL SERVICES, INC.
628 North Street
Post Office Box Number 53
Geneva, IL 60134

Creditor	Account Number	Principal	Interest	Costs	Total Fees
VERIZON NORTH NY (BUFFALO)	7165681421253264026	\$670.73	\$0.00	\$0.00	\$670.73

Other Accounts: \$0.00

Total Due \$670.73

This account has been listed with our office for collection!

Return the top section with payment in full!

For your convenience, we accept Visa and Mastercard.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice, this office will: obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor. This is an attempt to collect a debt. Any information obtained will be used for that purpose.

This communication is from a debt collector.

April 19, 2005

KCA FINANCIAL SERVICES, INC.
628 NORTH STREET
PO BOX 53
GENEVA IL 60134

RE: MATTHEW T. PAWLOWSKI D/B/A
CINCH STRAP COMPANY AND
LISA A. PAWLOWSKI
BK. NO. #1-04-12196-CLB
VERIZON NORTH NY
ACCT #7165681421253264026
YR. ACCT #KQ0841-5-5H1

Ladies/Gentlemen:

We enclose a copy of your letter received by our client dated March 21, 2005. Other agencies have attempted to collect this and we have sent to them a copy of our client's First Meeting of Creditors in Bankruptcy. If any more harassment is received, we will proceed with an Adversary Proceeding in Bankruptcy Court for damages because of the violation of the Automatic Stay.

Very truly yours,

AARON DAUTCH STERNBERG & LAWSON, LLP
William E. Lawson

WEL/db
Enc.

LS6909-5-SH1 - 866-372-7144
KCAFS 628 North Street
Post Office Box Number 53
Geneva, IL 60134
Forwarding Service Requested

10/10/2005
VERIZON NORTH NY (BUFFALO)
ACCT#: 7165681421253264026

Total Due \$670.73

|||||
MATTHEW PAWLOWSKI

27 SILVERTHORN DR
WILLIAMSVILLE NY 14221-1763

KCA FINANCIAL SERVICES, INC.
628 North Street
Post Office Box Number 53
Geneva, IL 60134

|||||

PLEASE ENCLOSE THIS PORTION WITH YOUR PAYMENT

LS6909-5-SH1 - 866-372-7144
MATTHEW PAWLOWSKI

27 SILVERTHORN DR
WILLIAMSVILLE NY 14221-1763

10/10/2005

RE: YOUR ACCOUNT:



KCA FINANCIAL SERVICES, INC.
628 North Street
Post Office Box Number 53
Geneva, IL 60134

Creditor	Account Number	Principal	Interest	Costs	Total Fees
VERIZON NORTH NY (BUFFALO)	7165681421253264026	\$670.73	\$0.00	\$0.00	\$670.73

Other Accounts: \$0.00
Total Due \$670.73

This account has been listed with our office for collection!

Return the top section with payment in full!

For your convenience, we accept Visa and Mastercard.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice, this office will: obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor. This is an attempt to collect a debt. Any information obtained will be used for that purpose.

This communication is from a debt collector.

Sending an eligible check for payment to us is deemed sufficient authorization to complete the payment by electronic debit. By doing so, your checking account will be debited the amount of the check and your cancelled check will not be returned by your bank.

Hours of Operation: M-Th 7AM-9PM, F 7AM-5PM, Sat 8AM-12PM CST - Telephone: (866) 372-7144